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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,039	01/12/2001	Joseph Rinchuso	CE08395R	1866
22917 7590 09/19/2008 MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			EXAMINER HAILE, FEBEN	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 09/19/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/760,039	<b>Applicant(s)</b> RINCHIUSO ET AL.	
	<b>Examiner</b> FEBEN HAILE	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In view of amendment filed February 27, 2007, the status of the application is still pending with respect to claims 1-14, with claims 10-12 being withdrawn from consideration due to restrictive non-election.

2. The amendment filed is insufficient to overcome the rejection of claims based upon Koo et al. (US 6,804,219), Hjelm et al. (US 6,529,497), Lohtia et al. (US 2002/0082033), and newly discovered reference Pankaj et al. (US 6,229,795) as set forth in this new Office action because: the Applicants claimed invention fails to clarify a distinction over the cited references, thus the subject matter is not patentable.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Koo et al. (US 6,804,219), hereinafter referred to as Koo, in view of Hjelm et al. (US 6,529,497), hereinafter referred to as Hjelm, in view of Pankaj et al. (US 6,229,795), hereinafter referred to as Pankaj.

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**Regarding claims 1 and 7**, Koo discloses transmitting data over a wireless data channel at a data rate (**figure 2 unit 200; column 2 line 38; in an active state, data is transmitted on a dedicated traffic channel at a rate**); determining that no more data need to be transmitted (**column 2 lines 43-46; data transmission is discontinued**).

Koo fails to explicitly suggest delaying dropping the data channel for a time period based on the data rate.

Hjelm teaches delaying dropping the data channel for a time period (**column 9 lines 53-67; a method for addressing a capacity problem by providing timers for channels comprising; starting a timer when there is no more traffic ongoing on a channel, i.e. data rate=0, and then releasing that channel when the timer expires**), (**column 10 lines 6; the timer values can be set dynamically either per packet control unit or per cell**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for releasing a channel taught by Hjelm into the state transition method disclosed by Koo. The motivation for such a modification is to efficiently utilize the idle capacity for data transmission even if the capacity allocated for data service is not being used when the amount of data is not known before the point of transmission.

Koo, Hjelm, and/or their combination fail to explicitly suggest wherein the time period is based on the data rate.

Pankaj teaches wherein the time period is based on the data rate (**column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of maintaining a timer taught by Pankaj into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

**Regarding claim 2**, Koo discloses the step of transmitting data over the wireless data channel comprises the step of transmitting data over a Code Division Multiple Access Supplemental Channel (**column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a supplemental channel**).

**Regarding claim 3**, Pankaj discloses wherein the time period is proportional to the data rate (**column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate**).

**Regarding claim 4**, Koo discloses operating a data transmitter in a CDMA Active state to transmit data at a data rate(**figure 2 unit 200; column 2 line 38; in an active state, data is transmitted on a dedicated traffic channel at a rate**); determining that no more data needs to be transmitted over a CDMA supplemental channel (**column 2**

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**lines 43-46; data transmission is discontinued);** and operating the data transmitter in a Control Hold state **(column 2 lines 43-46; the dedicated traffic channel is released and a control hold state is entered).**

Koo fails to explicitly suggest delaying transition to the Control Hold state for a period of time.

Hjelm teaches delaying transition to the Control Hold state for a period of time **(column 9 lines 53-67; a method for addressing a capacity problem by providing timers for channels comprising; starting a timer when there is no more traffic ongoing on a channel, i.e. data rate=0, and then releasing that channel when the timer expires).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for releasing a channel taught by Hjelm into the state transition method disclosed by Koo. The motivation for such a modification is to efficiently utilize the idle capacity for data transmission even if the capacity allocated for data service is not being used when the amount of data is not known before the point of transmission.

Koo, Hjelm, and/or their combination fail to explicitly suggest wherein the period of time is based on a data rate.

Pankaj teaches wherein the period of time is based on a data rate **(column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of maintaining a timer taught by Pankaj into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

**Regarding claim 5**, Koo discloses wherein the step of operating the data transmitter in the CDMA Active state comprises the step of transmitting via a dedicated control channel and a CDMA supplemental channel **(column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a dedicated control channel or a supplemental channel)**.

**Regarding claim 6**, Koo discloses wherein the step of operating the data transmitter in the CDMA Control Hold state comprises the step of transmitting via a dedicated control channel only **(column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a dedicated control channel)**.

**Regarding claim 7**, Koo discloses channel circuitry for transmitting data at a data rate **(figure 2 unit 200; column 2 line 38; in an active state, data is transmitted on a dedicated traffic channel at a rate)**.

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Koo fails to explicitly suggest a timer coupled to the channel circuitry, wherein the timer delays deactivation of the channel circuitry after data transmission for a period of time.

Hjelm teaches a timer coupled to the channel circuitry (**column 9 lines 53-57; a method for addressing a capacity problem by providing timers for channels comprising**) wherein the timer delays deactivation of the channel circuitry after data transmission for a period of time (**column 9 lines 57-67; starting a timer when there is no more traffic ongoing on a channel, i.e. data rate=0, and then releasing that channel when the timer expires**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for releasing a channel taught by Hjelm into the state transition method disclosed by Koo. The motivation for such a modification is to efficiently utilize the idle capacity for data transmission even if the capacity allocated for data service is not being used when the amount of data is not known before the point of transmission.

Koo, Hjelm, and/or their combination fail to explicitly wherein the period of time is based on the data rate.

Pankaj teaches wherein the period of time is based on the data rate (**column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of maintaining a timer taught by Pankaj



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into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

**Regarding claim 8**, Pankaj discloses wherein the period of time is proportional to the data rate (**column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate**).

**Regarding claim 9**, Koo discloses wherein the channel circuitry comprises CDMA fundamental channel circuitry (**column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a fundamental channel**).

4. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koo et al. (US 6,804,219), hereinafter referred to as Koo Hjelm et al. (US 6,529,497), hereinafter referred to as Hjelm, Pankaj et al. (US 6,229,795), hereinafter referred to as Pankaj, in view of Lohtia et al. (US 2002/0082033), hereinafter referred to as Lohtia.

**Regarding claims 13-14**, Koo as modified by Hjelm and Pankaj disclose the limitations of base claim 1.

Koo, Hjelm, Pankaj, and/or their combination fail to suggest establishing a temporary block flow (TBF) to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel.

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Lohtia discloses establishing a temporary block flow (TBF) to transmit data over the wireless data channel **(page 2 paragraph 0024; a method for establishing a temporary block flow (TBF) between a mobile station and base station for signaling purposes)** and delaying termination of the TBF by transmitting dummy data over the wireless data channel **(page 3 paragraph 0028-0029; the base station and mobile station send messages to each other when the end of a TBF is detected before releasing the TBF).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of Lohtia into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm and the method of maintaining a timer taught by Pankaj. The motivation being to enhance the performance of bursty packet based communications over a wireless network.

**Regarding claim 14,** Koo as modified by Hjelm and Pankaj disclose the limitations of base claim 7.

Koo, Hjelm, Pankaj, and/or their combination fail to suggest establishing a temporary block flow (TBF) to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel.

Lohtia discloses establishing a temporary block flow (TBF) to transmit data over the wireless data channel **(page 2 paragraph 0024; a method for establishing a temporary block flow (TBF) between a mobile station and base station for**

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**signaling purposes)** and delaying termination of the TBF by transmitting dummy data over the wireless data channel **(page 3 paragraph 0028-0029; the base station and mobile station send messages to each other when the end of a TBF is detected before releasing the TBF).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of Lohtia into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm and the method of maintaining a timer taught by Pankaj. The motivation being to enhance the performance of bursty packet based communications over a wireless network.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments filed August 22, 2008 with respect to the rejection of claims 13-14 have been fully considered but they are not persuasive.

In response to the Applicant's confusion as to how Lohtia can be prior art since it was filed thirteen days after the filing date of the present application, the Examiner clarifies that the prior art date of a U.S. Patent/Printed Publication from which a nonprovisional application claiming the benefit of a prior provisional application is the filing date of the provisional application, i.e. December 21, 2000. Furthermore, the

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subject matter relied upon in a rejection must be disclosed in the earlier-filed application in order to be entitled to the earlier filing date. The Examiner notes that all of the subject matter relied upon for the rejection has been fully disclosed in the earlier filed application 60/257,788. Therefore, Lohita is valid prior art under 35 U.S.C. 103(a).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Feben M. Haile whose telephone number is (571) 272-3072. The examiner can normally be reached on 10:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aung S. Moe can be reached on (571) 272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/  
Supervisory Patent Examiner, Art Unit 2616

/Feben M Haile/  
Examiner, Art Unit 2616

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